



CITY COUNCIL

AGENDA REQUEST

AGENDA OF:	08/07/2007	AGENDA REQUEST NO:	V A
INITIATED BY:	REGINA MORALES	RESPONSIBLE DEPARTMENT:	ECONOMIC DEVELOPMENT
PRESENTED BY:	REGINA MORALES	DEPARTMENT HEAD:	REGINA MORALES, DIRECTOR OF ECONOMIC DEVELOPMENT <i>RFM</i>
		ADDITIONAL DEPARTMENT HEAD (S):	N/A
SUBJECT / PROCEEDING:	CONSIDERATION OF AND APPROVAL OF CONTRACT FOR HISTORICAL PRESERVATION SERVICES BETWEEN FORT BEND COUNTY MUSEUM ASSOCIATION AND CITY OF SUGAR LAND FOR HISTORIC ARTIFACT RECORDATION AND COLLECTION AT IMPERIAL SUGAR PLANT SITE.		
EXHIBITS:	CONTRACT FOR HISTORICAL PRESERVATION SERVICES BETWEEN CITY OF SUGAR LAND AND FORT BEND COUNTY MUSEUM ASSOCIATION		
CLEARANCES		APPROVAL	
LEGAL:	EUGENIA CANO, ASSISTANT CITY ATTORNEY <i>Eugenia A. Cano</i>	EXECUTIVE DIRECTOR:	JOE ESCH, BUSINESS & INTERGOVERNMENTAL RELATIONS <i>JE</i>
PURCHASING:	JENNIFER MONTGOMERY PURCHASING MANAGER <i>Jm</i>	ASST. CITY MANAGER:	N/A
BUDGET:	LINDA SYMANK, DIRECTOR OF FISCAL SERVICES <i>LS</i>	CITY MANAGER:	ALLEN BOGARD <i>Allen Bogard</i>
BUDGET			
EXPENDITURE REQUIRED: \$		40,000	
AMOUNT BUDGETED/REALLOCATION: \$		150,000	
ADDITIONAL APPROPRIATION: \$		N/A	
RECOMMENDED ACTION			
Approve contract for services between Fort Bend County Museum Association and City of Sugar Land.			

EXECUTIVE SUMMARY

As part of the 2006-2007 City Council Work Plan, the Heritage Preservation & Recognition Strategic Project has been underway to identify the City's role in the preservation of historic structures, areas, records and artifacts. The purpose of this strategic project is to devise a citizen-based process that respects the community values and creates a more specific plan for recognizing and preserving the heritage of Sugar Land and celebrating our local history through stakeholder involvement. One of the primary areas of interest for historic preservation has been identified as the Imperial Sugar plant site.

An update on the progress of the Heritage Preservation / Imperial Sugar project was discussed in a workshop with City Council on July 17, 2007. Staff was directed to move forward with collecting the artifacts to accommodate the 60-day window allowed by Cherokee Investments. The proposed lump sum contract will provide the services and equipment to acquire items in the Char House, refinery and outbuildings. Collection of additional artifacts held by Imperial Sugar Company is included in the contract but will be addressed once an agreement is reached with Imperial Sugar Company. The City will be responsible for providing the climate controlled storage units until such time that a proposed museum is completed and the collection can be relocated to its permanent location.

The contract with the Fort Bend County Museum Association for \$40,000 provides the services for Phase I of collecting and recording the entire inventory of historic artifacts and documents. This contract is exempt from the purchasing code bid process because the Fort Bend County Museum Association is providing the management services as a non-profit sole source. Funding has been budgeted for the 2006/2007 Fiscal year through the Tourism/HOT revenue funds.

Phase I will consist of identifying, documenting, sorting, inventorying, and transferring to storage all types of materials identified as having historic relevance. In addition, a video documentation of the premises before the project commences will be completed. Phase I is expected to require 60-days to complete. A future Phase II will address the technical process of cleaning, conservation care, accessioning, and proper documentation of the collection of artifacts and archives. This second phase will be an 18-month process and possibly become the responsibility of the proposed heritage foundation dependent on how quickly it can be formed. Staff will provide an update at the next Council meeting to address progress with Imperial Sugar Company and the creation of the Sugar Land Heritage Foundation.

EXHIBITS

HISTORICAL PRESERVATION SERVICES CONTRACT

This Contract (Contract) is made between the City of Sugar Land, Texas (City), and Contractor. The City and Contractor agree to the terms and conditions of this Contract, which consists of the following parts:

- III. Standard Contractual Provisions
- IV. Special Terms and Conditions
- V. Contract Attachments

I. Summary of Contract Terms.

Contractor: Fort Bend County Museum Association

Description of Services:	Professional Identification, Inventory and Transfer of Historical Artifacts Pertaining to the Imperial Sugar Company—Phase I
Maximum Contract Amount:	\$40,000
Effective Date:	On the latest date of the dates executed by both parties
Termination Date:	December 7, 2007

CITY OF SUGAR LAND*

CONTRACTOR:

Signed by: City Manager

Title: _____

Date: _____

Date: _____

Reviewed for Legal Compliance:

Eugenia A. Cano

III. Standard Contractual Provisions.

A. Definitions.

Contract means this Historical Preservation Services Contract.

Services means the professional services to identify, inventory and transfer historical artifacts pertaining to Imperial Sugar Company.

B. Services and Payment. Contractor will furnish Services to the City in accordance with the terms and conditions specified in this Contract. Contractor will bill the City for the Services provided at intervals of at least 30 days, except for the final billing. The City shall pay Contractor for the Services in accordance with the terms of this Contract, but all payments to be made by the City to Contractor, including the time of payment and the payment of interest on overdue amounts, are subject to the applicable provisions of Chapter 2251 of the Government Code.

C. Termination Provisions.

(1) *City Termination for Convenience.* Under this paragraph, the City may terminate this Contract during its term at any time for the City's own convenience where the Contractor is not in default by giving written notice to Contractor. If the City terminates this Contract under this paragraph, the City will pay the Contractor for all services rendered in accordance with this Contract to the date of termination.

(2) *Termination for Default.* Either party to this Contract may terminate this Contract as provided in this paragraph if the other party fails to comply with its terms. The party alleging the default will give the other party notice of the default in writing citing the terms of the Contract that have been breached and what action the defaulting party must take to cure the default. If the party in default fails to cure the default as specified in the notice, the party giving the notice of default may terminate this Contract by written notice to the other party, specifying the date of termination. Termination of this Contract under this paragraph does not affect the right of either party to seek remedies for breach of the Contract as allowed by law, including any damages or costs suffered by either party.

(3) *Multi-Year Contracts and Funding.* If this Contract extends beyond the City's fiscal year in which it becomes effective or provides for the City to make any payment during any of the City's fiscal years following the City's fiscal year in which this Contract becomes effective and the City fails to appropriate funds to make any required Contract payment for that successive fiscal year and there are no funds from the City's sale of debt instruments to make the required payment, then this Contract automatically terminates at the beginning of the first day of the City's successive fiscal year of the Contract for which the City has not appropriated funds or otherwise provided for funds to make a required payment under the Contract.

D. Liability and Indemnity. Each party to this Contract is responsible for defending against and liable for paying any claim, suit, or judgment for damages, loss, or costs arising from that party's negligent acts or omissions in the performance of this Contract in accordance with applicable law. This provision does not affect the right of either party to this Contract who is sued by a third party for acts or omissions arising from this Contract to bring in the other party to this Contract as a third-party defendant as allowed by law.

E. Assignment. The Contractor shall not assign this Contract without the prior written consent of the City.

F. Law Governing and Venue. This Contract is governed by the law of the State of Texas and a lawsuit may only be prosecuted on this Contract in a court of competent jurisdiction located in or having jurisdiction in Fort Bend County, Texas.

G. Entire Contract. This Contract represents the entire Contract between the City and the Contractor and supersedes all prior negotiations, representations, or contracts, either written or oral. This Contract may be amended only by written instrument signed by both parties.

H. Independent Contractor. Contractor shall perform the work under this Contract as an independent contractor and not as an employee of the City. The City has no right to supervise, direct, or control the Contractor or Contractor's officers or employees in the means, methods, or details of the work to be performed by Contractor under this Contract. The City and Contractor agree that the work performed under this Contract is not inherently dangerous, that Contractor will perform the work in a workmanlike manner, and that Contractor will take proper care and precautions to insure the safety of Contractor's officers and employees.

I. Dispute Resolution Procedures. The Contractor and City desire an expeditious means to resolve any disputes that may arise between them regarding this Contract. If either party disputes any matter relating to this Contract, the parties agree to try in good faith, before bringing any legal action, to settle the dispute by submitting the matter to mediation before a third party who will be selected by agreement of the parties. The parties will each pay one-half of the mediator's fees.

J. Attorney's Fees. Should either party to this Contract bring suit against the other party for breach of contract or for any other cause relating to this Contract, neither party will seek or be entitled to an award of attorney's fees or other costs relating to the suit.

K. Severability. If a court finds or rules that any part of this Contract is invalid or unlawful, the remainder of the Contract continues to be binding on the parties.

IV. Special Terms or Conditions. None.

V. Additional Contract Documents. The following specified documents attached to this Contract are part of this Contract, except as follows: any provision contained in any of the Contractor's Additional Contract Documents specified below that conflicts with a Contract provision not included in the Contractor's Additional Contract Documents, does not apply to this Contract.

A. Contractor's Additional Contract Documents:

1. Fort Bend Museum Association Proposal (2 pages)

B. City's Additional Contract Documents:

1. Insurance for Designated Professional Service Contracts [Form PU-111F-2 (3 pages)]

To: Regina Morales, Economic Development Director-City of Sugar Land
From: Candace Jones, Executive Director-Fort Bend County Museum Association

RE: Proposal for Imperial Sugar Collections Project

Overview: The Fort Bend County Museum Association would like to present the following project proposal to the City of Sugar Land for the purpose of identification, inventorying, and physical transfer of significant historical items, documents, and photographs from the Imperial Sugar complex. On July 23, 2007, an on-site assessment of the potential scale and scope of the historical archival/artifact content of the Imperial Sugar Char House, refinery, laboratory, outbuildings and company store was conducted. The Fort Bend County Museum Association project team consisted of the following senior staff: Executive Director Candace Jones, Deputy Director of Historic Services Bryan McAuley, Museum Site Director Jerry Hoover and Curator of Collections Chris Godbold. Prior to this visit, on July 9th, a similar assessment of the Cannery buildings had been conducted by the same group.

Project Proposal: The Fort Bend County Museum Association proposes a two phase project to preserve and protect the historical resources of the Imperial Sugar Company. In Phase One, archives and artifacts would be identified, sorted, inventoried and transferred to temporary storage units to be held off-site. This process must be done fairly quickly due to the time schedule set by Cherokee Investments in the purchase of the property. Phase Two can be accomplished in a much less urgent fashion and will conclude after 18 months with all the items and artifacts properly conserved and accessioned following standard Museum procedures. At this point, the items will be fully documented and ready for future exhibit.

Following the preliminary assessments, the following conclusions were reached:
Phase One of the project would consist of identifying, documenting, sorting, inventorying, and transferring to storage three different types of materials.

1. Large amounts of archival documents and photographs of historical value are scattered throughout the numerous offices and outbuildings. The scale of this part of the project is significant; it will require careful sifting of contents, literally room by room, often drawer by drawer to, identify those items worthy of preservation. This process must be conducted by individuals who have the professional expertise to make judgments on the importance or relevance of items from a historical perspective.
2. Physical artifacts are also widely scattered throughout the Char House, refinery and outbuildings. Some are large pieces of equipment and others are small to medium sized personal items. This will also require professional expertise to determine the historical significance of items.
3. There are also physical items having historical significance that cannot be easily removed until the major demolition begins. The items would need to be identified and be acquired

at a later date with the prior agreement of the developers.

Phase 1: The initial phase of the project is very labor intensive and under tight time constraints. It will require 3 full time experienced Museum professionals of credible expertise assisted by hourly labor to accomplish its completion within the specified time period. We propose the following objectives to be accomplished during an approximate 8 week time period:

1. Provide a thorough video documentation of the premises before the project commences.
2. Identify artifacts and archives located throughout the complex which have historical significance and are worthy of preservation.
3. Conduct preliminary inventory and tag items for future accessioning.
4. Sort, organize, and box items prior to storage.
5. Transfer to temporary storage units.
6. Provide a complete computerized data base of all items with digital photo documentation.
7. Provide a finalized binder for each storage unit documenting the contents
8. Identify items to be removed during demolition process.

Phase 1 Cost Breakdown:

Permanent Staff Wages/Salaries		
(Governance/Administrative/ Accounting)	\$ 500	
Historian/Project Manager	10,000	
Curatorial Support	8,000	
Operations Support; Manager plus (3) hourly	16,000	
Equipment/Supplies	1,000	
Digitizing Services	1,000	Consultants
	1,000	
Other Unexpected and Indirect Costs		<u>2,500</u>
		\$40,000

CITY OF SUGAR LAND

FORM PU-111F-2

REQUIRED INSURANCE PROVISIONS FOR DESIGNATED PROFESSIONAL SERVICE CONTRACTS

The Contractor shall comply with each and every condition contained herein. The Contractor shall provide and maintain, until the work covered in the contract is completed and accepted by The City of Sugar Land, the minimum insurance coverages as follows:

1. Commercial General Liability insurance at minimum combined single limits of \$1,000,000 per-occurrence and \$2,000,000 general aggregate for bodily injury and property damage, which coverage shall include products/completed operations (\$1,000,000 products/completed operations aggregate), and XCU (Explosion, Collapse, Underground) hazards. Coverage must be written on an occurrence form. Contractual Liability must be maintained covering the Contractors obligations contained in the contract.
2. Workers Compensation insurance at statutory limits, including Employers Liability coverage a minimum limits of \$500,000 each-occurrence each accident/\$500,000 by disease each-occurrence/\$500,000 by disease aggregate.
3. Commercial Automobile Liability insurance at minimum combined single limits of \$1,000,000 per-occurrence for bodily injury and property damage, including owned, non-owned, and hired car coverage.

PLEASE NOTE: The required limits may be satisfied by any combination of primary, excess, or umbrella liability insurances, provided the primary policy complies with the above requirements and the excess umbrella is following-form. The Contractor may maintain reasonable and customary deductibles, subject to approval by the City of Sugar Land.

Any Subcontractor(s) hired by the Contractor shall maintain insurance coverage equal to that required of the Contractor. It is the responsibility of the Contractor to assure compliance with this provision. The City of Sugar Land accepts no responsibility arising from the conduct, or lack of conduct, of the Subcontractor.

A Comprehensive General Liability insurance form may be used in lieu of a Commercial General Liability insurance form. In this event, coverage must be written on an occurrence basis, at limits of \$1,000,000 each-occurrence, combined single limit, and coverage must include a broad form Comprehensive General Liability Endorsement, products/completed operations, XCU hazards, and contractual liability.

With reference to the foregoing insurance requirement, Contractor shall specifically endorse applicable insurance policies as follows:

1. The City of Sugar Land shall be named as an additional insured with respect to General Liability and Automobile Liability.
2. All liability policies shall contain no cross liability exclusions or insured versus insured restrictions.
3. A waiver of subrogation in favor of the City of Sugar Land shall be contained in the Workers Compensation, and all liability policies.
4. All insurance policies shall be endorsed to require the insurer to immediately notify the City of Sugar Land of any material change in the insurance coverage.
5. All insurance policies shall be endorsed to the effect that the City of Sugar Land will receive at least thirty (30) days' written notice prior to cancellation or non-renewal of the insurance.
6. All insurance policies, which name the City of Sugar Land as an additional insured, must be endorsed to read as

primary coverage regardless of the application of other insurance.

7. Required limits may be satisfied by any combination of primary and umbrella liability insurances.
8. Contractor may maintain reasonable and customary deductibles, subject to approval by the City of Sugar Land.
9. Insurance must be purchased from insurers having a minimum AmBest rating of A 7.

All insurance must be written on forms filed with and approved by the Texas Department of Insurance. Certificates of Insurance shall be prepared and executed by the insurance company or its authorized agent and shall contain provisions representing and warranting the following:

1. Sets forth all endorsements and insurance coverages according to requirements and instructions contained herein.
2. Shall specifically set forth the notice-of-cancellation or termination provisions to the City of Sugar Land.

Upon request, Contractor shall furnish the City of Sugar Land with certified copies of all insurance policies.

A valid certificate of insurance verifying each of the coverages required above shall be issued directly to the City of Sugar Land within ten (10) business days after contract award by the successful contractor's insurance agent of record or insurance company. The certificate of insurance shall be sent to:

City of Sugar Land
Attn: Purchasing Dept.
P.O. Box 110
Sugar Land, TX 77487-0110

Reduction or Waiver of Insurance Requirements

The City may at any time reduce or waive all or part of the insurance requirements established by this document for any contractor that has entered into an agreement with the City to provide the services for which this insurance applies, if the City determines that the reduction or waiver will not unreasonably expose the City to a risk of liability or loss. An authorized City representative must authorize any reduction or waiver of these insurance requirements in writing before the reduction or waiver is effective.

ACORD CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YY)
06/19/2002

PRODUCER Agency Software, Inc. 11101 Airport Road Hayden, ID 83835 (800)342-7327		THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.	
INSURED XYZ Engineering, Inc. 4321 Smith Houston, TX 77072 713-495-8798		INSURERS AFFORDING COVERAGE INSURER A: Selective Insurance Company INSURER B: Indemnity Insurance Company INSURER C: State Fund INSURER D: INSURER E:	

COVERAGES
 THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED, NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC	123456789	06/19/02	06/19/03	EACH OCCURRENCE \$ 1,000,000
	FIRE DAMAGE (Any one fire) \$50,000				
	MED EXP (Any one person) \$5,000				
	PERSONAL & ADV INJURY \$1,000,000				
B	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS	234565460	06/19/02	06/19/03	GENERAL AGGREGATE \$2,000,000
	PRODUCTS - COM/OP AGG \$1,000,000				
	COMBINED SINGLE LIMIT (Ea accident) \$1,000,000				
	BODILY INJURY (Per person) \$				
C	GARAGE LIABILITY <input type="checkbox"/> ANY AUTO	WC5985614	06/19/02	06/19/03	BODILY INJURY (Per accident) \$
	PROPERTY DAMAGE (Per accident) \$				
	AUTO ONLY - EA ACCIDENT \$				
	OTHER THAN AUTO ONLY: EA ACC \$				
A	EXCESS LIABILITY <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> DEDUCTIBLE RETENTION \$	87456901 "Claims Made"	06/19/02	06/19/03	AGGREGATE \$
	\$				
	\$				
	\$				
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY	87456901 "Claims Made"	06/19/02	06/19/03	<input checked="" type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTHER
	E.L. EACH ACCIDENT \$500,000				
	E.L. DISEASE - EA EMPLOYEE \$500,000				
	E.L. DISEASE - POLICY LIMIT \$500,000				
A	OTHER Professional Liability	87456901 "Claims Made"	06/19/02	06/19/03	\$1,000,000 each claim
	\$1,000,000 General Aggregate				

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/EXCLUSIONS ADDED BY ENDORSEMENT/SPECIAL PROVISIONS
 Certificate Holder is an additional insured. Waiver of Subrogation in favor of the Certificate Holder as required by written contract.

CERTIFICATE HOLDER <input checked="" type="checkbox"/> ADDITIONAL INSURED; INSURER LETTER: <input checked="" type="checkbox"/>	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL NOTICE BY MAIL <u>30</u> DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES. AUTHORIZED REPRESENTATIVE: <i>John Wagner</i>
City of Sugar Land P. O. Box 110 Sugar Land, TX 77487-0110 Attn: Finance / Purchasing	

ACORD 25-S (7/97)

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Insurance Broker or Agent

Name of Insured must match the Contractor name in the contract

General Liability - Claims made or Modified Occurrence

Professional Liability coverage at the Limits shown must be provided.

This section must contain Additional Insured and Waiver of Subrogation endorsements as shown

Minimum acceptable AmBest rating for Insurers is A7

The GL Each Occurrence and General Aggregate Limits must be at least as shown at left

The AL Combined Single Limit must total \$1,000,000 minimum

The totals in each box must be at least as shown and the WC Statutory Limits box must be checked

Certificate Holder must be City of Sugar Land with proper address

Signed by the insurance company, insurance agent, or insurance broker only.

A minimum of 30 days written notice of cancellation or non-renewal must be provided.